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7 Attorneys for Complainant

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation and Petition to
Revoke Probation Against:

12 **ANDREW DAVID BECKERLEY**
13 2381 Durham Street
Durham, California 95938

14 Registered Nurse License No. 688368

15 Respondent.

Case No. **2008-347**

**ACCUSATION AND PETITION
TO REVOKE PROBATION**

17 Ruth Ann Terry, M.P.H., R.N. ("Complainant") alleges:

18 **PARTIES**

19 1. Complainant brings this Accusation and Petition to Revoke Probation
20 solely in her official capacity as the Executive Officer of the Board of Registered Nursing
21 ("Board"), Department of Consumer Affairs.

22 **Registered Nurse License**

23 2. On or about September 8, 2006, the Board issued Registered Nurse
24 License No. 688368 ("license") to Andrew David Beckerley ("Respondent"). The license will
25 expire on January 31, 2010, unless renewed.

26 **Prior Discipline**

27 3. Effective August 31, 2006, in a disciplinary action entitled "In the Matter
28 of the Statement of Issues Against Andrew D. Beckerley" Statement of Issues No. 2006-95, the

1 Board of Registered Nursing issued a Decision and Order, attached hereto as **Exhibit A** and
2 incorporated herein by reference, in which Respondent's application for licensure was granted
3 and Registered Nurse License No. 688368 was issued to Respondent and automatically revoked.
4 However, the revocation was stayed and Respondent was placed on probation for two (2) years
5 with conditions.

6 **JURISDICTION**

7 4. Section 2750 of the Business and Professions Code ("Code") provides, in
8 pertinent part, that the Board may discipline any licensee, including a licensee holding a
9 temporary or an inactive license, for any reason provided in Article 3 (commencing with Code
10 section 2750) of the Nursing Practice Act.

11 5. Section 2764 of the Code provides, in pertinent part, that the expiration of
12 a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding
13 against the licensee or to render a decision imposing discipline on the license. Under Code
14 section 2811, subdivision (b), the Board may renew an expired license at any time within eight
15 years after the expiration.

16 6. Code section 118, subdivision (b), provides, in pertinent part, that the
17 expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary
18 action during the period within which the license may be renewed, restored, reissued or
19 reinstated.

20 **STATUTORY PROVISIONS**

21 7. Code section 2761, subdivision (a), states, in pertinent part:

22 The board may take disciplinary action against a certified or licensed nurse
23 or deny an application for a certificate or license for any of the following:

24 (a) Unprofessional conduct . . . ,

25 8. Code section 2762 states, in pertinent part:

26 In addition to other acts constituting unprofessional conduct within the
27 meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct
28 for a person licensed under this chapter to do any of the following:

(a) Obtain or possess in violation of law, or prescribe, or except as
directed by a licensed physician and surgeon, dentist, or podiatrist administer to

1 himself or herself, or furnish or administer to another, any controlled substance as
2 defined in Division 10 (commencing with Section 11000) of the Health and Safety
Code or any dangerous drug or dangerous device as defined in Section 4022.

3 COST RECOVERY

4 9. Code section 125.3 provides, in pertinent part, that the Board may request
5 the administrative law judge to direct a licensee found to have committed a violation or
6 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
7 and enforcement of the case.

8 ACCUSATION

9 10. DRUGS

10 "Methadone Hydrochloride" is a Schedule II controlled substance as designated
11 by Health and Safety Code section 11055, subdivision (c)(14), and a dangerous drug pursuant to
12 Code section 4022, in that it requires a prescription under federal and state laws.

13 "Marijuana" is a Schedule I controlled substance as designated by Health and
14 Safety Code section 11054, subdivision (d)(13).

15 "Oxycodone" is a Schedule II controlled substance as designated by Health and
16 Safety Code section 11055, subdivision (b)(1)(N), and a dangerous drug pursuant to Code section
17 4022, in that it requires a prescription under federal and state laws.

18 CAUSE FOR DISCIPLINE

19 (Self Administration)

20 11. Respondent has subjected his license to discipline under Code section
21 2762, subdivision (a), on the grounds of unprofessional conduct, in that Respondent self-
22 administered controlled substances, without lawful authority, as follows:

- 23 a. On or about August 7, 2007, Respondent self-administered Methadone.
- 24 b. On or about November 6, 2007, Respondent self-administered
25 Cannabinoids (Marijuana).
- 26 c. On or about January 2, 2008, Respondent self-administered Oxycodone.

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1 15. Respondent's probation is subject to revocation because he failed to
2 comply with Probation Condition 15, referenced above. The facts and circumstances regarding
3 this violation are that Respondent failed to completely abstain from the use of controlled
4 substances, as follows:

- 5 a. Respondent tested positive for Methadone on August 7, 2007.
6 b. Respondent tested positive for Cannabinoids (Marijuana) on
7 November 6, 2007.
8 c. Respondent tested positive for Oxycodone on January 2, 2008.

9 **SECOND CAUSE TO REVOKE PROBATION**

10 **(Failure to Comply with the Probation Program)**

11 16. At all times after the effective date of Respondent's probation, Condition 2
12 stated:

13 Respondent shall fully comply with the terms and conditions of the
14 Probation Program established by the Board and cooperate with representatives of
15 the Board in its monitoring and investigation of the Respondent's compliance
16 with the Probation Program. Respondent shall inform the Board in writing within
no more than 15 days of any address change and shall at all times maintain an
active, current license status with the Board, including during any period of
suspension.

17 17. Respondent's probation is subject to revocation because he failed to
18 comply with Probation Condition 2, referenced above. The facts and circumstances regarding
19 this violation are that Respondent failed to comply with the Board's Probation Program, as set
20 forth in paragraphs 11 and 14, above.

21 **PRAYER**

22 **WHEREFORE**, Complainant requests that a hearing be held on the matters
23 herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

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1 1. Revoking the probation that was granted by the Board of Registered
2 Nursing in Case No. 2006-95 and imposing the disciplinary order that was stayed thereby
3 revoking Registered Nurse License No. 688368, issued to Andrew David Beckerley; and,

4 2. Taking such other and further action as deemed necessary and proper.
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6 DATED: 6/6/08
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9 RUTH ANN TERRY, M.P.H., R.N.
10 Executive Officer
11 Board of Registered Nursing
12 Department of Consumer Affairs
13 State of California
14 Complainant
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Exhibit A
Decision and Order
Board of Registered Nursing Case No. 2006-95

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Statement of Issues
Against:

ANDREW D. BECKERLEY
1738 VISTA VERDE AVENUE
CHICO, CA 95928

Case No. 2006-95

OAH No. 2006020407

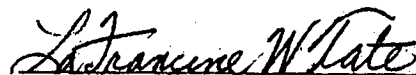
Respondent

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as it's Decision in the above entitled matter.

This Decision shall become effective on **August 31, 2006**.

IT IS SO ORDERED **July 31, 2006**



Vice-President
Board of Registered Nursing
Department of Consumer Affairs
State of California

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of the State of California
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7 Attorneys for Complainant

8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Statement of Issues Against:

11 ANDREW D. BECKERLEY
12 1738 Vista Verde Avenue
13 Chico, CA 95928

14 Respondent.

Case No. 2006-95

OAH No. 2006020407

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

15
16 IT IS HEREBY STIPULATED AND AGREED by and between the parties to
17 the above-entitled proceedings that the following matters are true:

18 PARTIES

19 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) is the Executive Officer
20 of the Board of Registered Nursing. She brought this action solely in her official capacity
21 and is represented in this matter by Bill Lockyer, Attorney General of the State of California,
22 by Arthur D. Taggart, Lead Supervising Deputy Attorney General.

23 2. Respondent ANDREW D. BECKERLEY (Respondent) is represented
24 in this proceeding by attorney K. Stephen Swenson, whose address is 2485 Notre Dame
25 Boulevard, Suite 370E, Chico, CA 95928.

26 3. On or about April 15, 2005, Respondent filed an application dated
27 February 20, 2005, with the Board of Registered Nursing to obtain a registered nurse license.
28 The Board denied the application on July 15, 2005.

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3 CONTINGENCY

4 10. This stipulation shall be subject to approval by the Board of Registered
5 Nursing. Respondent understands and agrees that counsel for Complainant and the staff of
6 the Board of Registered Nursing may communicate directly with the Board regarding this
7 stipulation and settlement, without notice to or participation by Respondent or his counsel.
8 By signing the stipulation, Respondent understands and agrees that he may not withdraw his
9 agreement or seek to rescind the stipulation prior to the time the Board considers and acts
10 upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated
11 Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it
12 shall be inadmissible in any legal action between the parties, and the Board shall not be
13 disqualified from further action by having considered this matter.

14 11. The parties understand and agree that facsimile copies of this
15 Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall
16 have the same force and effect as the originals.

17 12. In consideration of the foregoing admissions and stipulations, the
18 parties agree that the Board may, without further notice or formal proceeding, issue and enter
19 the following Disciplinary Order:

20 DISCIPLINARY ORDER

21 IT IS HEREBY ORDERED that registered nurse license will be issued to
22 Respondent ANDREW D. BECKERLEY and automatically revoked. However the
23 revocation is stayed and Respondent placed on two (2) years probation on the following
24 terms and conditions.

25 **Severability Clause.** Each condition of probation contained herein is a
26 separate and distinct condition. If any condition of this Order, or any application thereof, is
27 declared unenforceable in whole, in part, or to any extent, the remainder of this Order, and all
28 other applications thereof, shall not be affected. Each condition of this Order shall separately
be valid and enforceable to the fullest extent permitted by law.

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1 1. **Obey All Laws.** Respondent shall obey all federal, state and local
2 laws. A full and detailed account of any and all violations of law shall be reported by
3 Respondent to the Board in writing within seventy-two (72) hours of occurrence. To permit
4 monitoring of compliance with this condition, Respondent shall submit completed fingerprint
5 forms and fingerprint fees within 45 days of the effective date of the decision, unless
6 previously submitted as part of the licensure application process.

7 **Criminal Court Orders:** If Respondent is under criminal court orders,
8 including probation or parole, and the order is violated, this shall be deemed a violation of
9 these probation conditions, and may result in the filing of an accusation and/or petition to
10 revoke probation.

11 2. **Comply with the Board's Probation Program.** Respondent shall
12 fully comply with the conditions of the Probation Program established by the Board and
13 cooperate with representatives of the Board in its monitoring and investigation of the
14 Respondent's compliance with the Board's Probation Program. Respondent shall inform the
15 Board in writing within no more than 15 days of any address change and shall at all times
16 maintain an active, current license status with the Board, including during any period of
17 suspension.

18 Upon successful completion of probation, Respondent's license shall be fully
19 restored.

20 3. **Report in Person.** Respondent, during the period of probation, shall
21 appear in person at interviews/meetings as directed by the Board or its designated
22 representatives.

23 4. **Residency, Practice, or Licensure Outside of State.** Periods of
24 residency or practice as a registered nurse outside of California shall not apply toward a
25 reduction of this probation time period. Respondent's probation is tolled, if and when he
26 resides outside of California. Respondent must provide written notice to the Board within 15
27 days of any change of residency or practice outside the state, and within 30 days prior to re-
28 establishing residency or returning to practice in this state.

1 Respondent shall provide a list of all states and territories where he has ever
2 been licensed as a registered nurse, vocational nurse, or practical nurse. Respondent shall
3 further provide information regarding the status of each license and any changes in such
4 license status during the term of probation. Respondent shall inform the Board if he applies
5 for or obtains a new nursing license during the term of probation.

6 **5. Submit Written Reports.** Respondent, during the period of
7 probation, shall submit or cause to be submitted such written reports/declarations and
8 verification of actions under penalty of perjury, as required by the Board. These
9 reports/declarations shall contain statements relative to Respondent's compliance with all the
10 conditions of the Board's Probation Program. Respondent shall immediately execute all
11 release of information forms as may be required by the Board or its representatives.

12 Respondent shall provide a copy of this Decision to the nursing regulatory
13 agency in every state and territory in which he has a registered nurse license.

14 **6. Function as a Registered Nurse.** Respondent, during the period of
15 probation, shall engage in the practice of registered nursing in California for a minimum of
16 24 hours per week for 6 consecutive months or as determined by the Board.

17 For purposes of compliance with the section, "engage in the practice of
18 registered nursing" may include, when approved by the Board, volunteer work as a registered
19 nurse, or work in any non-direct patient care position that requires licensure as a registered
20 nurse.

21 The Board may require that advanced practice nurses engage in advanced
22 practice nursing for a minimum of 24 hours per week for 6 consecutive months or as
23 determined by the Board.

24 If Respondent has not complied with this condition during the probationary
25 term, and Respondent has presented sufficient documentation of his good faith efforts to
26 comply with this condition, and if no other conditions have been violated, the Board, in its
27 discretion, may grant an extension of Respondent's probation period up to one year without
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1 further hearing in order to comply with this condition. During the one year extension, all
2 original conditions of probation shall apply.

3 7. **Employment Approval and Reporting Requirements.** Respondent
4 shall obtain prior approval from the Board before commencing or continuing any
5 employment, paid or voluntary, as a registered nurse. Respondent shall cause to be submitted
6 to the Board all performance evaluations and other employment related reports as a registered
7 nurse upon request of the Board.

8 Respondent shall provide a copy of this Decision to his employer and
9 immediate supervisors prior to commencement of any nursing or other health care related
10 employment.

11 In addition to the above, Respondent shall notify the Board in writing within
12 seventy-two (72) hours after he obtains or continues any nursing or other health care related
13 employment. Respondent shall notify the Board in writing within seventy-two (72) hours
14 after he is terminated or separated, regardless of cause, from any nursing, or other health care
15 related employment with a full explanation of the circumstances surrounding the termination
16 or separation.

17 8. **Supervision.** Respondent shall obtain prior approval from the Board
18 regarding Respondent's level of supervision and/or collaboration before commencing or
19 continuing any employment as a registered nurse, or education and training that includes
20 patient care.

21 Respondent shall practice only under the direct supervision of a registered
22 nurse in good standing (no current discipline) with the Board of Registered Nursing, unless
23 alternative methods of supervision and/or collaboration (e.g., with an advanced practice nurse
24 or physician) are approved.

25 Respondent's level of supervision and/or collaboration may include, but is not
26 limited to the following:

27 (a) Maximum - The individual providing supervision and/or collaboration is
28 present in the patient care area or in any other work setting at all times.

1 (b) Moderate - The individual providing supervision and/or collaboration is
2 in the patient care unit or in any other work setting at least half the hours Respondent works.

3 (c) Minimum - The individual providing supervision and/or collaboration
4 has person-to-person communication with Respondent at least twice during each shift
5 worked.

6 (d) Home Health Care - If Respondent is approved to work in the home
7 health care setting, the individual providing supervision and/or collaboration shall have
8 person-to-person communication with Respondent as required by the Board each work day.
9 Respondent shall maintain telephone or other telecommunication contact with the individual
10 providing supervision and/or collaboration as required by the Board during each work day.
11 The individual providing supervision and/or collaboration shall conduct, as required by the
12 Board, periodic, on-site visits to patients' homes visited by Respondent with or without
13 Respondent present.

14 9. **Employment Limitations.** Respondent shall not work for a nurse's
15 registry, in any private duty position as a registered nurse, a temporary nurse placement
16 agency, a traveling nurse, or for an in-house nursing pool.

17 Respondent shall not work for a licensed home health agency as a visiting
18 nurse unless the registered nursing supervision and other protections for home visits have
19 been approved by the Board. Respondent shall not work in any other registered nursing
20 occupation where home visits are required.

21 Respondent shall not work in any health care setting as a supervisor of
22 registered nurses. The Board may additionally restrict Respondent from supervising licensed
23 vocational nurses and/or unlicensed assistive personnel on a case-by-case basis.

24 Respondent shall not work as a faculty member in an approved school of
25 nursing or as an instructor in a Board approved continuing education program.

26 Respondent shall work only on a regularly assigned, identified and
27 predetermined worksite(s) and shall not work in a float capacity.

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1 If Respondent is working or intends to work in excess of 40 hours per week,
2 the Board may request documentation to determine whether there should be restrictions on
3 the hours of work.

4 **10. Complete a Nursing Course(s).** Respondent, at his own expense,
5 shall enroll and successfully complete a course(s) relevant to the practice of registered
6 nursing no later than six months prior to the end of his probationary term.

7 Respondent shall obtain prior approval from the Board before enrolling in the
8 course(s). Respondent shall submit to the Board the original transcripts or certificates of
9 completion for the above required course(s). The Board shall return the original documents to
10 Respondent after photocopying them for its records.

11 **11. Violation of Probation.** If Respondent violates the conditions of his
12 probation, the Board after giving Respondent notice and an opportunity to be heard, may set
13 aside the stay order and impose the stayed discipline (revocation/suspension) of Respondent's
14 license.

15 If during the period of probation, an accusation or petition to revoke probation
16 has been filed against Respondent's license or the Attorney General's Office has been
17 requested to prepare an accusation or petition to revoke probation against Respondent's
18 license, the probationary period shall automatically be extended and shall not expire until the
19 accusation or petition has been acted upon by the Board.

20 **12. License Surrender.** During Respondent's term of probation, if he
21 ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the
22 conditions of probation, Respondent may surrender his license to the Board. The Board
23 reserves the right to evaluate Respondent's request and to exercise its discretion whether to
24 grant the request, or to take any other action deemed appropriate and reasonable under the
25 circumstances, without further hearing. Upon formal acceptance of the tendered license and
26 wall certificate, Respondent will no longer be subject to the conditions of probation.

27 Surrender of Respondent's license shall be considered a disciplinary action
28 and shall become a part of Respondent's license history with the Board. A registered nurse

1 whose license has been surrendered may petition the Board for reinstatement no sooner than
2 the following minimum periods from the effective date of the disciplinary decision:

3 (1) Two years for reinstatement of a license that was surrendered for any
4 reason other than a mental or physical illness; or

5 (2) One year for a license surrendered for a mental or physical illness.

6 13. **Physical Examination.** Within 45 days of the effective date of this
7 Decision, Respondent, at his expense, shall have a licensed physician, nurse practitioner, or
8 physician assistant, who is approved by the Board before the assessment is performed, submit
9 an assessment of the Respondent's physical condition and capability to perform the duties of
10 a registered nurse. Such an assessment shall be submitted in a format acceptable to the Board.
11 If medically determined, a recommended treatment program will be instituted and followed
12 by the Respondent with the physician, nurse practitioner, or physician assistant providing
13 written reports to the Board on forms provided by the Board.

14 If Respondent is determined to be unable to practice safely as a registered
15 nurse, the licensed physician, nurse practitioner, or physician assistant making this
16 determination shall immediately notify the Board and Respondent by telephone, and the
17 Board shall request that the Attorney General's office prepare an accusation or petition to
18 revoke probation. Respondent shall immediately cease practice and shall not resume practice
19 until notified by the Board. During this period of suspension, Respondent shall not engage in
20 any practice for which a license issued by the Board is required until the Board has notified
21 Respondent that a medical determination permits Respondent to resume practice. This period
22 of suspension will not apply to the reduction of this probationary time period.

23 If Respondent fails to have the above assessment submitted to the Board
24 within the 45-day requirement, Respondent shall immediately cease practice and shall not
25 resume practice until notified by the Board. This period of suspension will not apply to the
26 reduction of this probationary time period. The Board may waive or postpone this
27 suspension only if significant, documented evidence of mitigation is provided. Such
28 evidence must establish good faith efforts by Respondent to obtain the assessment, and a

1 specific date for compliance must be provided. Only one such waiver or extension may be
2 permitted.

3 14. **Participate in Treatment/Rehabilitation Program for Chemical**
4 **Dependence.** Respondent, at his expense, shall successfully complete during the
5 probationary period or shall have successfully completed prior to commencement of
6 probation a Board-approved treatment/rehabilitation program of at least six months duration.
7 As required, reports shall be submitted by the program on forms provided by the Board. If
8 Respondent has not completed a Board-approved treatment/rehabilitation program prior to
9 commencement of probation, Respondent, within 45 days from the effective date of the
10 decision, shall be enrolled in a program. If a program is not successfully completed within
11 the first nine months of probation, the Board shall consider Respondent in violation of
12 probation.

13 Based on Board recommendation, each week Respondent shall be required to
14 attend at least one, but no more than five 12-step recovery meetings or equivalent (e.g.,
15 Narcotics Anonymous, Alcoholics Anonymous, etc.) and a nurse support group as approved
16 and directed by the Board. If a nurse support group is not available, an additional 12-step
17 meeting or equivalent shall be added. Respondent shall submit dated and signed
18 documentation confirming such attendance to the Board during the entire period of probation.
19 Respondent shall continue with the recovery plan recommended by the
20 treatment/rehabilitation program or a licensed mental health examiner and/or other ongoing
21 recovery groups.

22 15. **Abstain from Use of Psychotropic (Mood-Altering) Drugs.**
23 Respondent shall completely abstain from the possession, injection or consumption by any
24 route of all controlled substances and all psychotropic (mood altering) drugs, including
25 alcohol, except when the same are ordered by a health care professional legally authorized to
26 do so as part of documented medical treatment. Respondent shall have sent to the Board, in
27 writing and within fourteen (14) days, by the prescribing health professional, a report
28 identifying the medication, dosage, the date the medication was prescribed, the Respondent's

1 prognosis, the date the medication will no longer be required, and the effect on the recovery
2 plan, if appropriate.

3 Respondent shall identify for the Board a single physician, nurse practitioner
4 or physician assistant who shall be aware of Respondent's history of substance abuse and will
5 coordinate and monitor any prescriptions for Respondent for dangerous drugs, controlled
6 substances or mood-altering drugs. The coordinating physician, nurse practitioner, or
7 physician assistant shall report to the Board on a quarterly basis Respondent's compliance
8 with this condition. If any substances considered addictive have been prescribed, the report
9 shall identify a program for the time limited use of any such substances.

10 The Board may require the single coordinating physician, nurse practitioner,
11 or physician assistant to be a specialist in addictive medicine, or to consult with a specialist in
12 addictive medicine.

13 16. **Submit to Tests and Samples.** Respondent, at his expense, shall
14 participate in a random, biological fluid testing or a drug screening program which the Board
15 approves. The length of time and frequency will be subject to approval by the Board.
16 Respondent is responsible for keeping the Board informed of Respondent's current telephone
17 number at all times. Respondent shall also ensure that messages may be left at the telephone
18 number when he is not available and ensure that reports are submitted directly by the testing
19 agency to the Board, as directed. Any confirmed positive finding shall be reported
20 immediately to the Board by the program and Respondent shall be considered in violation of
21 probation.

22 In addition, Respondent, at any time during the period of probation, shall fully
23 cooperate with the Board or any of its representatives, and shall, when requested, submit to
24 such tests and samples as the Board or its representatives may require for the detection of
25 alcohol, narcotics, hypnotics, dangerous drugs, or other controlled substances.

26 If Respondent has a positive drug screen for any substance not legally
27 authorized and not reported to the coordinating physician, nurse practitioner, or physician
28 assistant, and the Board files a petition to revoke probation or an accusation, the Board may

1 suspend Respondent from practice pending the final decision on the petition to revoke
2 probation or the accusation. This period of suspension will not apply to the reduction of this
3 probationary time period.

4 If Respondent fails to participate in a random, biological fluid testing or drug
5 screening program within the specified time frame, Respondent shall immediately cease
6 practice and shall not resume practice until notified by the Board. After taking into account
7 documented evidence of mitigation, if the Board files a petition to revoke probation or an
8 accusation, the Board may suspend Respondent from practice pending the final decision on
9 the petition to revoke probation or the accusation. This period of suspension will not apply to
10 the reduction of this probationary time period.

11 **17. Mental Health Examination.** Respondent shall, within 45 days of the
12 effective date of this Decision, have a mental health examination including psychological
13 testing as appropriate to determine his capability to perform the duties of a registered nurse.
14 The examination will be performed by a psychiatrist, psychologist or other licensed mental
15 health practitioner approved by the Board. The examining mental health practitioner will
16 submit a written report of that assessment and recommendations to the Board. All costs are
17 the responsibility of Respondent. Recommendations for treatment, therapy or counseling
18 made as a result of the mental health examination will be instituted and followed by
19 Respondent.

20 If Respondent is determined to be unable to practice safely as a registered
21 nurse, the licensed mental health care practitioner making this determination shall
22 immediately notify the Board and Respondent by telephone, and the Board shall request that
23 the Attorney General's office prepare an accusation or petition to revoke probation.
24 Respondent shall immediately cease practice and may not resume practice until notified by
25 the Board. During this period of suspension, Respondent shall not engage in any practice for
26 which a license issued by the Board is required, until the Board has notified Respondent that
27 a mental health determination permits Respondent to resume practice. This period of
28 suspension will not apply to the reduction of this probationary time period.

1 If Respondent fails to have the above assessment submitted to the Board
2 within the 45-day requirement, Respondent shall immediately cease practice and shall not
3 resume practice until notified by the Board. This period of suspension will not apply to the
4 reduction of this probationary time period. The Board may waive or postpone this
5 suspension only if significant, documented evidence of mitigation is provided. Such
6 evidence must establish good faith efforts by Respondent to obtain the assessment, and a
7 specific date for compliance must be provided. Only one such waiver or extension may be
8 permitted.

9 18. **Therapy or Counseling Program.** Respondent, at his expense, shall
10 participate in an on-going counseling program until such time as the Board releases him from
11 this requirement and only upon the recommendation of the counselor. Written progress
12 reports from the counselor will be required at various intervals.

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1 ACCEPTANCE


2 I have carefully read the above Stipulated Settlement and Disciplinary Order
3 and have fully discussed it with my attorney, K. Stephen Swenson. I understand the
4 stipulation and the effect it will have on my registered nurse license. I enter into this
5 Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and
6 agree to be bound by the Decision and Order of the Board of Registered Nursing.

7 DATED: 5-19-06

8
9 
10 ANDREW D. BECKERLEY
Respondent

11 I have read and fully discussed with Respondent ANDREW D. BECKERLEY
12 the terms and conditions and other matters contained in the above Stipulated Settlement and
13 Disciplinary Order. I approve its form and content.

14 DATED: June 19, 2006

15
16 
17 K. STEPHEN SWENSON
Attorney for Respondent

18
19 ENDORSEMENT

20 The foregoing Stipulated Settlement and Disciplinary Order is hereby
21 respectfully submitted for consideration by the Board of Registered Nursing of the
22 Department of Consumer Affairs.

23 DATED: June 19, 2006

24 BILL LOCKYER, Attorney General
of the State of California

25
26 
27 ARTHUR D. TAGGART
Lead Supervising Deputy Attorney General

28 Attorneys for Complainant

Exhibit A
Statement of Issues No. 2006-95

1 BILL LOCKYER, Attorney General
of the State of California
2 ARTHUR D. TAGGART, State Bar No. 083047
Lead Supervising Deputy Attorney General
3 California Department of Justice
1300 I Street, Suite 125
4 P.O. Box 944255
Sacramento, CA 94244-2550
5 Telephone: (916) 324-5339
Facsimile: (916) 327-8643

6 Attorneys for Complainant
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10 **BEFORE THE**
11 **BOARD OF REGISTERED NURSING**
12 **DEPARTMENT OF CONSUMER AFFAIRS**
13 **STATE OF CALIFORNIA**

14 In the Matter of the Statement of Issues Against:

Case No. 2006-95

15 **ANDREW DAVID BECKERLEY**
1738 Vista Verde Avenue
16 Chico, California 95928

STATEMENT OF ISSUES

17 Applicant/Respondent.
18

19 Ruth Ann Terry, M.P.H., R.N., Executive Officer ("Complainant") alleges:

20 **PARTIES**

21 1. Complainant brings this Statement of Issues solely in her official capacity
22 as the Executive Officer of the Board of Registered Nursing, Department of Consumer Affairs.

23 **Application History**

24 2. On or about April 15, 2005, the Board of Registered Nursing, Department
25 of Consumer Affairs received an Application for Licensure by Examination from
26 ANDREW DAVID BECKERLEY ("Respondent"). On or about February 20, 2005, Respondent
27 certified under penalty of perjury to the truthfulness of all statements, answers, and
28 representations in the application. The Board denied the application on July 15, 2005.

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3. Section 2736 of the Business and Professions Code ("Code") states, in

(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

(3) Done any act which if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof.

(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.

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1 **SECOND CAUSE FOR DENIAL OF APPLICATION**

2 **(Possessed Controlled Substances)**

3 8. Respondent is subject to disciplinary action under Code section 2761,
4 subdivision (a), on the grounds of unprofessional conduct, as defined in Code section 2762,
5 subdivisions (a), in that Respondent possessed controlled substances, in violation of law, as set
6 forth in paragraph 7, subparagraphs (a), (b), and (d), above

7 **THIRD CAUSE FOR DENIAL OF APPLICATION**

8 **(Criminal Convictions Involving Controlled Substances)**

9 9. Respondent is subject to disciplinary action under Code section 2761,
10 subdivision (a), on the grounds of unprofessional conduct, as defined in Code section 2762,
11 subdivision (c), in that Respondent was convicted of crimes involving the possession of
12 controlled substances, as set forth in paragraph 7, subparagraphs (a), (b), and (d), above.

13 **FOURTH CAUSE FOR DENIAL OF APPLICATION**

14 **(Done Any Acts if Committed by a Licentiate)**

15 10. Respondent's application is subject to denial under Code section and 480,
16 subdivision (a)(3), in that Respondent committed acts which if done by a licentiate of the
17 profession, would be grounds for suspension or revocation of a license, pursuant to Code sections
18 2761, subdivision (f), and 2762, subdivisions (a) and (c), as set forth in paragraphs 7, 8, and 9,
19 above.

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1 PRAYER

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein
3 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

4 1. Denying the application of ANDREW DAVID BECKERLEY for a
5 registered nurse license; and,

6 2. Taking such other and further action as deemed necessary and proper.
7

8 DATED: 12/29/05
9

10
11 Ruth Ann Terry
12 RUTH ANN TERRY, M.P.H., R.N., EXECUTIVE
13 OFFICER
14 Executive Officer
15 Board of Registered Nursing
16 Department of Consumer Affairs
17 State of California
18 Complainant
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